



Dora
Department of Regulatory Agencies

MARKET CONDUCT EXAMINATION REPORT
Dated January 30, 2012

**COVERING THE TIME PERIOD OF JANUARY 1, 2010 THROUGH
DECEMBER 31, 2010**

ALLIANT NATIONAL TITLE INSURANCE COMPANY, INC

**1831 Lefthand Circle, Suite G
Longmont, Colorado 80501**

**NAIC Company Code 12309
NAIC Group Code N/A**



CONDUCTED BY:

COLORADO DIVISION OF INSURANCE

**ALLIANT NATIONAL TITLE INSURANCE COMPANY
1831 Lefthand Circle, Suite G
Longmont, Colorado 80501**

**MARKET CONDUCT EXAMINATION REPORT
DATED JANUARY 30, 2012**

COVERING THE TIME PERIOD OF JANUARY 1, 2010 THROUGH DECEMBER 31, 2010

Examination Performed by:

Division of Insurance Market Conduct Examiners

**Christine M. Nelson
Market Conduct Examiner**

And

**Jeffory A. Olson, CIE, MCM, FLMI, AIRC, ALHC
Examiner-in-Charge**

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. COMPANY PROFILE	4
II. PURPOSE AND SCOPE	5
II. METHODOLOGY	6
IV. EXAMINATION REPORT SUMMARY	10
V. FACTUAL FINDINGS	11
A. Company Operations and Management	12
F. Rates	15
G. New Business	19
VI. SUMMARY OF ISSUES AND RECOMMENDATIONS	33
VII. EXAMINATION REPORT SUBMISSION	34

COMPANY PROFILE

The following is taken directly from written documentation provided by Alliant and has not been independently verified by the Division of Insurance:

Alliant National Title Insurance Company, Inc. (“Alliant”) is a privately held title insurer based in Longmont, Colorado. It was licensed as a title insurance underwriter by the Colorado Division of Insurance (“Division”) in September of 2005 as Agents Title Insurance Company, Inc. The Company changed its name in July of 2006 to Alliant National Title Insurance Company, Inc.

The Company issues title insurance to property owners and lenders through a network of independent title agents** in the states where Alliant is licensed to operate. Alliant is currently licensed to operate in eight (8) states: Arizona, Colorado, Florida, Kansas, Missouri, Nevada, South Carolina and Texas. Revenue comes from the premiums independent title agents choose to write on Alliant paper.

Premium and Market Share in Colorado as of December 31, 2010*:

Total Written Premium:	\$9,425,000
------------------------	-------------

Market Share:	3.94%
---------------	-------

Loss Ratio:	1.05%
-------------	-------

*As shown in the 2010 Edition of the Colorado Insurance Industry Statistical Report

**The use of the term “independent title agents” is one utilized by Alliant, and is not a term accepted or approved by the Division.

A.M. Best has not currently assigned a Financial Strength Rating to Alliant

PURPOSE AND SCOPE

State market conduct examiners, with the Division, reviewed certain business practices of Alliant National Title Insurance Company, Inc. (“Alliant” or “Company”). This market conduct examination (“MCE”) was conducted in accordance with Colorado insurance laws §§ 10-1-201, 10-1-203, 10-1-204, 10-1-205 and 10-3-1106, C.R.S., which empower the Commissioner of Insurance to examine any entity engaged in the business of insurance in Colorado. All work product developed in producing this report is the sole property of the Division.

The purpose of this examination was to determine Alliant’s compliance with Colorado insurance laws related to title insurance business in Colorado. Examination information contained in this report will serve only this purpose, except as provided by law pursuant to §§ 10-1-204 and 10-1-205, C.R.S. The findings and conclusions, including the Final Agency Order, arising out of this examination shall be a public record.

The examiners conducted the examination in accordance with procedures developed by the Division, which are based on model procedures developed by the National Association of Insurance Commissioners (“NAIC”). The examiners relied primarily on records and materials maintained and/or supplied by Alliant and its agents. This market conduct examination covered the period from January 1, 2010 through December 31, 2010.

The examination included a review of the following:

- Company Operations and Management
- Advertising, Marketing and Sales
- Producers/Agents
- Contract Forms
- Rates
- Underwriting – New Business
- Claims

The final examination report is a report written by exception. References to additional practices, procedures, or files that did not contain improprieties were omitted. Based on review of the above areas, the examiners prepared comment forms that were provided to Alliant. The comment forms set forth any concerns and/or discrepancies identified by the examiners during the course of the examination. The comment forms contained a section that permitted Alliant to submit a written response to each of the examiners’ comments.

For the period under examination, the examiners included statutory citations and regulatory references related to insurance laws in Colorado. Examination findings may result in administrative action by the Division. The examiners may not have discovered all unacceptable or non-complying practices of Alliant. Failure to identify specific Alliant practices does not constitute acceptance of such practices. This report should not be construed to either endorse or discredit any insurance company or insurance company product.

METHODOLOGY

The examiner reviewed Alliant’s business practices to determine compliance with Colorado insurance laws as outlined below.

Statute or Regulation	Subject
Section 10-1-128, C.R.S.	Fraudulent insurance acts – immunity for furnishing information relating to suspected insurance fraud – legislative declaration.
Section 10-2-401, C.R.S.	License required.
Section 10-2-406, C.R.S.	Licensing of agencies.
Section 10-2-702, C.R.S.	Commissions.
Section 10-2-704, C.R.S.	Fiduciary responsibilities.
Section 10-3-1104, C.R.S.	Unfair methods of competition - unfair or deceptive acts or practices.
Section 10-11-102, C.R.S.	Definitions.
Section 10-11-103, C.R.S.	Compliance with article required.
Section 10-11-106, C.R.S.	Determination of insurability required.
Section 10-11-108, C.R.S.	Prohibitions.
Section 10-11-109, C.R.S.	Unearned premium reserve.
Section 10-11-110, C.R.S.	Amount of unearned premium reserve-release.
Section 10-11-111, C.R.S.	Reserve for unpaid losses and loss expense.
Section 10-11-116, C.R.S.	Title insurance agents licensed.
Section 10-11-118, C.R.S.	Title insurance-rules.
Section 10-11-119, C.R.S.	Laws applicable.
Section 10-11-121, C.R.S.	Application of article-other laws applicable.
Section 10-11-122, C.R.S.	Title commitments.
Section 10-11-123, C.R.S.	Notification of severed mineral estates.
Section 10-11-124, C.R.S.	Affiliated business arrangements – rules – investigative information shared with division of real estate.
Insurance Regulation 1-1-7	Market Conduct Record Retention
Insurance Regulation 1-1-8	Penalties and Timelines Concerning Division Inquiries and Document Requests
Insurance Regulation 3-5-1	Title Insurance
Insurance Regulation 6-4-1	Privacy of Consumer Financial and Health Information

Sampling Methodology

Where sampling was necessary, the examiners reviewed files randomly selected from the larger population of files in accordance with the sampling methodology and sample sizes set forth in the NAIC Market Regulation Handbook (“Handbook”). Otherwise, the examiners reviewed the entire population of files. Per statute, the examiners used the most recent version (2010) of the Handbook available at the commencement of the examination. For this examination, the examiners reviewed a random sample of new business policy files from a unique population and the entirety of the claims population.

In some instances, the issue being reviewed only applied to a small subset of the sample. In these instances, Alliant was afforded the opportunity to agree that the initial sample was representative of the overall population, or to request that an additional/larger sample be selected. In each instance, Alliant indicated that the results of the initial sample were representative of the overall population, and an additional sample was not necessary.

When sampling was involved, a minimum error tolerance level of seven percent (7%) for claims, and ten percent (10%) for other samples, was established, per the Handbook, to determine reportable exceptions.

Audit and Examinations

Alliant has not been the subject of a market conduct examination by the Division prior to this exam. The Company was subject to a financial examination covering the period of September 6, 2005 through December 31, 2009 which was concluded July 21, 2010.

Company Operations and Management

The examiners reviewed Alliant's management and administrative controls, agent oversight, the Certificate of Authority, record retention, underwriting guidelines, and timely cooperation with the examination process. The examiners also reviewed Alliant's disaster recovery plan and its anti-fraud plan's implementation and associated procedures.

Advertising, Marketing and Sales

As part of the examination Alliant was asked to provide documentation of all promotional and advertising materials and activities utilized by Alliant or its agents during the period of examination. The examiners reviewed all the advertising and promotional materials provided that were utilized by Alliant during the examination period. The examiners also reviewed advertising and promotional materials provided by Alliant for seven (7) of twenty (20) active title agents that Alliant indicated had utilized their own advertising materials during the examination period. Alliant indicated the other thirteen (13) active agents did not utilize any of their own advertising materials during the examination period. Alliant also indicated there were six (6) other agents whose agency agreements were terminated during the examination period that did not provide any information regarding advertising materials.

Producers/Agents

Alliant provided a listing of twenty-six (26) title agents that were active during any portion of the examination period. The examiners selected all twenty-six (26) agents to review for agent contracting and licensing.

Contract Forms

Alliant provided specimen copies of forms made available for use with title policies written in Colorado. The examiners reviewed each of the provided forms as listed below for compliance with Colorado insurance law:

FORM NAME

ALTA Short Form Expanded Coverage Residential Loan Policy eff. 1-1-08
ALTA Short Form Residential Loan Policy eff. 6-16-07
ALTA Loan Policy
ALTA Owners Policy
CO Endorsement Form 100
CO Endorsement Form 100.29
CO Endorsement Form 100.30
CO Endorsement Form 100.1
CO Endorsement 107.11
Colorado Endorsement 107.13
Colorado Endorsement 107.14
CO Endorsement 108.8
CO Endorsement 110.1
CO Endorsement 110.3
CO Endorsement 110.4
CO Endorsement 110.5
CO Endorsement 110.6
CO Endorsement 110.7
CO Endorsement 110.8
CO Endorsement 110.9
CO Endorsement 110.10
CO Endorsement 115.1
CO Endorsement 115.2
CO Endorsement 115.3
CO Endorsement 116
CO Endorsement 116.1
CO Endorsement 116.2
CO Endorsement 116.4
CO Endorsement 116.5
CO Endorsement 116.6
CO Endorsement 116IMP
CO Endorsement 116V
CO Endorsement 122
CO Endorsement 122.3
CO Endorsement 122.4
CO Endorsement 130
CO Endorsement 130.2
CO Endorsement 130.3
CO Endorsement 140.1
CO Endorsement 167.1
CO Endorsement 167.3
CO Endorsement ALTA 1
CO Endorsement GE-2
Endorsement GE-3

Rates

Alliant provided copies of its rate filings applicable to policies written during the period January 1, 2010 through December 31, 2010. The examiners reviewed actual charges to Colorado residents, during the file review process, to determine compliance with Colorado insurance law.

Underwriting – New Business

The examiners selected a random sample of 116 new business policies from a total population of 10,222 new business policies written during the examination period to determine compliance with Colorado insurance law.

Claims

The examiners reviewed the entire population of sixty-seven (67) claims received during the examination period. Alliant's claims processing practices were reviewed to determine compliance with Colorado insurance law.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of eight (8) findings in which Alliant was not in compliance with Colorado statutes and regulations. The following is a summary of the examiners' findings.

Company Operations and Management: The examiners identified one (1) area of concern during the review of Alliant's Company Operations and Management.

Issue A1: Failure to provide an anti-fraud statement as required by Colorado insurance law.

Producers/Agents: In the area of Producers/Agents, no issues are addressed in the report.

Policy Forms: In the area of Policy Forms, no issues are addressed in the report.

Rates: In the area of Rates, the examiners identified one (1) area of concern during the review of Alliant's Rates.

Issue F1: Failure, in some instances, to charge rates in accordance with the rates on file with the Commissioner.

Underwriting-New Business: In the area of Underwriting-New Business, the examiners identified six (6) areas of concern during the review of Alliant's Underwriting-New Business.

Issue G1: Failure, in some instances, to conduct, preserve and retain a reasonable examination of the title.

Issue G2: Failure to obtain a certificate of taxes due or written instructions eliminating the requirement from the proposed insured.

Issue G3: Failure, in some instances, to provide evidence of the severed mineral estate disclosure.

Issue G4: Failure, in some instances, to provide evidence that specific coverage exceptions had been disclosed.

Issue G5: Failure, in some instances, to require agents to remit premiums within the required contractual time period.

Issue G6: Failure, in some instances, to report to the Commissioner any remittance that exceeded forty-five (45) days beyond the contractual due date.

Claims Handling: In the area of claims handling, no issues are addressed in the report.

A copy of the Market Conduct Report if adopted pursuant to § 10-1-205(3)(a), C.R.S., and any subsequent response filed by Alliant, if applicable, can be obtained upon request from the Division.

Results of previous market conduct examinations, if any, are available on the Division's website at www.dora.state.co.us/insurance or by contacting the Division.

ALLIANT NATIONAL TITLE INSURANCE COMPANY, INC.

FACTUAL FINDINGS

COMPANY OPERATIONS AND MANAGEMENT

Issue A1: Failure, in some instances, to provide an anti-fraud statement as required by Colorado insurance law.
--

Section 10-1-102, C.R.S., Definitions, states in part:

...

- (6)(a) “Company”, “corporation”, “insurance company”, or “insurance corporation” includes all corporations, associations, partnerships, or individuals engaged as insurers in the business of insurance, including the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange, or suretyship except fraternal or benevolent orders and societies.

...

- (12) “Insurance” means a contract whereby one, for consideration, undertakes to indemnify another or to pay a specified or ascertainable amount or benefit upon determinable risk contingencies, and includes annuities.
- (13) “Insurer” means every person engaged as principal, indemnitor, surety, or contractor in the business of making contracts of insurance.

Section 10-1-128, C.R.S., Fraudulent insurance acts – immunity for furnishing information relating to suspected insurance fraud – legislative declaration, states in part:

...

- (6)(a) Each insurance company *shall provide on all printed applications for insurance, or on all insurance policies, or on all claim forms provided and required by an insurance company*, or required by law, whether printed or electronically transmitted, a statement, in conspicuous nature, *permanently affixed to the application, insurance policy or claim form* substantially the same as the following: [Emphases added.]

“It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.”

Alliant was not in compliance with Colorado insurance law in that in some cases it did not utilize or provide an anti-fraud statement permanently affixed to its title insurance policy, application or claim form. Although multiple files were identified that did not include the required fraud statement, the issue was considered a single violation.

Recommendation No. 1:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-1-128, C.R.S. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that all title insurance policies, applications or claim forms include the required verbiage regarding fraudulent acts and penalties, as required by Colorado insurance law.

<p><u>RATES</u></p>

Issue F1: Failure, in some instances, to charge rates in accordance with the rates on file with the Commissioner.
--

Section 10-11-118, C.R.S., Title insurance - rules, states in part:

- (1) Title insurance rates and fees shall be regulated in the manner provided in part 4 of article 4 of this title.
- (2) Prior to the effective date of any new or amended rate or fee, every title insurance company and title insurance agent shall file with the commissioner the new or amended rate or fee, with justification for the new or amended rate or fee. Each filing shall set forth its effective date, which shall be no earlier than thirty days after its receipt by the commissioner. The commissioner may promulgate rules to implement this subsection (2).
- (3) No title insurance company or title insurance agent shall use any rate or fee in the business of title insurance prior to its effective date, and no rate or fee increase or decrease shall apply to title policies or services that have been contracted for prior to such effective date. All rates or fees shall be readily available to the public in each office of the title insurance company or title insurance agent in the county to which said rates or fees apply.

Colorado Insurance Regulation 3-5-1, Title Insurance, promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 5. Rules Regarding Rates and Fees *

...

- G. No rate or fee can be charged unless it is on the currently effective schedule at the time that the commitment and/or policy or closing and settlement service is contracted. Title insurance companies may not use different rates for different title insurance agents for the same risk in the same county.
- H. Schedules shall not apply to title commitments and/or policies or closing and settlement services contracted for prior to the effective date of such schedule.
- I. No title entity shall quote any rate or fee or closing and settlement service charge to any person which is more or less than that currently available to others for the same type of title policy or service in a like amount, covering property in the same county and involving the same factors as set forth in its then current schedule of rates and fees.

*Regulation 3-5-1 was re-promulgated in 2010. The language of the 2010 version of Regulation 3-5-1, Section 5, subsections G, H, and I is identical to the language of Section 5, subsections D, E, and F of the 2007 version of the regulation.

...

Section 6. Rules Regarding Standards of Conduct for Title Insurance Entities *

...

- D. The following is a partial, but not all-inclusive, list of acts and practices which the Division considers per se unlawful inducements proscribed by § 10-11-108, C.R.S.:

...

9. Charging less than the scheduled rate or fee for a specified title or closing and settlement service, or for a policy of title insurance.

*Regulation 3-5-1 was re-promulgated in 2010. The language of the 2010 version of Regulation 3-5-1, Section 6, subsection D, 9 is identical to the language of Section 6, subsection A, 8 of the 2007 version of the regulation.

...

Section 7. Rules Regarding Consumer Protections

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.* [Emphasis added.]

Colorado Insurance Regulation 3-5-1, Title Insurance (effective January 1, 2007), promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-11-124(2) and 10-4-404(1), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- K. *Each title entity shall exercise reasonable efforts to ensure that the acts of its authorized agents performed within the scope of the person's employment by the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.* [Emphases added.]

Alliant was not in compliance with Colorado insurance law in that thirty (30) of 116 policy files, randomly selected from a total population of 10,222 policies, contained charges for policy and/or endorsement premiums that differed from the rates on file with the Commissioner for these services.

Some files reviewed contained more than one rating error, however, each file was considered as a singular error regardless of the number of errors contained in the file.

Premium Rating

Population	Sample Size	Number of Files with Exceptions	Total Error Rate
10,222	116	30	26%

The following chart contains a breakdown of the finding by coverage:

Type of Coverage	Sample Size	Number of Exceptions	Files Over Charge	Files Under Charge	Total Amount Over	Total Amount Under
Owner's	41	2	1	1	\$100.00	\$782.00
Lender's	107	7	4	3	\$335.00	\$139.00
Endorsements	114	13	6	7	\$137.50	\$174.70
Deletion 1-4	41	17	0	17	\$0.00	\$255.00

Recommendation No. 2:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-11-118, C.R.S. and Colorado Insurance Regulation 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that all title policy and endorsement charges are consistent with filed rates as required by Colorado insurance law.

<p><u>NEW BUSINESS</u></p>

Issue G1: Failure, in some instances, to conduct, preserve and retain a reasonable examination of the title.

Section 10-1-102, C.R.S., Definitions, states in part:

...

- (6)(a) “Company”, “corporation”, “insurance company”, or “insurance corporation” includes all corporations, associations, partnerships, or individuals engaged as insurers in the business of insurance, including the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange, or suretyship except fraternal or benevolent orders and societies.

Section 10-11-106, C.R.S., Determination of insurability required, states in part:

- (1) No policy or contract of title insurance shall be written unless and until the title insurance company has caused to be conducted a reasonable examination of the title and has caused to be made a determination of insurability of title in accordance with sound underwriting practices for title insurance companies.
Evidence thereof shall be preserved and retained in the files of the title insurance company or its agent for a period of not less than seven years after the policy or contract of title insurance has been issued. . . [Emphasis added.]

Colorado Insurance Regulation 1-1-7, Market Conduct Record Retention, promulgated under the authority of § 10-1-109(1), C.R.S., states in part:

...

Section 4. Records Required For Market Conduct Purposes

- A. Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may be readily ascertained during market conduct examinations, including but not limited to, company operations and management, policyholder services, claim’s practices, rating, underwriting . . .
- B. Each producer of record, if the carrier does not maintain, shall maintain records for each policy sold, and the records shall contain all the work papers and written communications in the producer’s possession pertaining to the documented policy.

Colorado Insurance Regulation 3-5-1, Title Insurance (effective May 1, 2010), promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- N. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10 of the Colorado Revised Statutes for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

Colorado Insurance Regulation 3-5-1, Title Insurance (effective January 1, 2007), promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-11-124(2) and 10-4-404(1), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- K. *Each title entity shall exercise reasonable efforts to ensure that the acts of its authorized agents performed within the scope of the person's employment by the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- L. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10, parts 4 and 11, for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

Alliant was not in compliance with Colorado insurance law in that twenty-three (23) of 116 policy files, randomly selected from a total population of 10,222 policies, did not contain evidence of a reasonable examination of the title.

Search and Examination

Population	Sample Size	Number of Exceptions	Total Error Rate
10,222	116	23	20%

Recommendation No. 3:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-11-106, C.R.S., and Colorado Insurance Regulations 1-1-7 and 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that a reasonable examination of the title is conducted, preserved and retained in its files as required by Colorado insurance law.

Issue G2: Failure, in some instances, to obtain a certificate of taxes due or written instructions eliminating the requirement from the proposed insured.
--

Section 10-11-122, C.R.S., Title commitments, states in part:

...

- (3) Before issuing any title insurance policy, unless the proposed insured provides written instructions to the contrary, a title insurance agent or title insurance company shall obtain a certificate of taxes due or other equivalent documentation from the county treasurer or the county treasurer's authorized agent.

Colorado Insurance Regulation 1-1-7, Market Conduct Record Retention, promulgated under the authority of § 10-1-109(1), C.R.S., states in part:

...

Section 4. Records Required For Market Conduct Purposes

- A. Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may be readily ascertained during market conduct examinations, including but not limited to, company operations and management, policyholder services, claim's practices, rating, underwriting.
- B. Each producer of record, if the carrier does not maintain, shall maintain records for each policy sold, and the records shall contain all the work papers and written communications in the producer's possession pertaining to the documented policy.

Colorado Insurance Regulation 3-5-1, Title Insurance (effective January 1, 2007), promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-11-124(2) and 10-4-404(1), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- K. *Each title entity shall exercise reasonable efforts to ensure that the acts of its authorized agents performed within the scope of the person's employment by the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- L. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10, parts 4 and 11, for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

Colorado Insurance Regulation 3-5-1, Title Insurance (effective May 1, 2010), promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- N. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10 of the Colorado Revised Statutes for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

Alliant was not in compliance with Colorado insurance law in that twenty-six (26) of 116 policy files, randomly selected from a total population of 10,222 policies, did not contain evidence that a certificate of taxes due, or written instructions from the proposed insured eliminating such requirement, had been obtained prior to issuing the title policy.

Tax Certificate

Population	Sample Size	Number of Exceptions	Total Error Rate
10,222	116	26	22%

Recommendation No. 4:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-11-122, C.R.S. and Colorado Insurance Regulations 1-1-7 and 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that a that a certificate of taxes due, or instructions eliminating the requirement, is obtained and retained prior to the issuance of the title policy, as required by Colorado insurance law.

Issue G3: Failure, in some instances, to provide evidence of the severed mineral estate disclosure.

Section 10-11-123, C.R.S., Notification of severed mineral estates, states in part:

- (1) For purposes of this section:
 - (a) "Mineral estate" means a mineral interest in real property.
 - (b) "Severed" means that the surface owner does not own all or any part of the mineral estate.
 - (c) "Surface estate" means an interest in real property that does not include the full mineral estate as shown by recorded documents that impart constructive notice in the office of the clerk and recorder of the county in which the real property is situated.
 - (d) "Surface owner" means the owner of the surface estate and any purchaser with rights under a contract to purchase all or part of the surface estate.
- (2) A title insurance agent or title insurance company shall provide, as part of each title commitment for the issuance of an owner's title insurance policy, the following written statement when it is determined that a mineral estate has been severed from the surface estate:
 - (a) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
 - (b) That such mineral estate may include the right to enter and use the property without the surface owner's permission.
- (3) In determining compliance with this section, a title insurance agent or title insurance company may rely on recorded documents that impart constructive notice in the office of the clerk and recorder of the county in which the real property is situated and shall not be liable for any errors or omissions in such records.
- (4) A title insurance company or title insurance agent may rely on any document purporting to sever mineral interests to act as notice of such severance when such document is recorded in the office of the county clerk and recorder in the county in which the real property is situated.
- (5) A title insurance agent or title insurance company shall be deemed to be in compliance with this section when it relies on any document purporting to sever mineral interests or to act as notice of such severance when such document is recorded in the office of the county clerk and recorder of the county in which the real property is situated. No title insurance agent or title insurance company shall be liable for obligations above, or for an amount in excess of, those stated in the owner's policy of title insurance issued pursuant to the commitment for failure to comply with the provision of subsection (2) of this section.

Colorado Insurance Regulation 3-5-1, Title Insurance (effective January 1, 2007), promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-11-124(2) and 10-4-404(1), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- K. *Each title entity shall exercise reasonable efforts to ensure that the acts of its authorized agents performed within the scope of the person's employment by the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- L. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10, parts 4 and 11, for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

Colorado Insurance Regulation 3-5-1, Title Insurance (effective May 1, 2010), promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- N. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10 of the Colorado Revised Statutes for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

The examiners selected a random sample of 116 policy files, which included both sale and refinance transactions. Of those, forty-one (41) files contained owner's policies. Additionally, only six (6) of those owner's policies were subject to the mineral estate disclosure requirement.

Alliant was not in compliance with Colorado insurance law in that two (2) of the six (6) owner's policy files that required the disclosure, did not contain evidence that the mineral estate disclosure had been provided.

Mineral Estate Disclosure

Population	Sample Size	Owner's Policies	Owner's Policies Requiring Disclosure	Number of Exceptions	Total Error Rate
10,222	116	41	6	2	33%

Recommendation No. 5:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-11-123, C.R.S. and Colorado Insurance Regulation 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that the severed mineral estate disclosure is provided with each title commitment issued for an owner's title insurance policy, when it is determined that a mineral estate has been severed from the surface estate, as required by Colorado insurance law.

Issue G4: Failure, in some instances, to provide evidence that specific coverage exceptions had been disclosed.

Colorado Insurance Regulation 3-5-1, Title Insurance, promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- B. Every title entity shall ensure that the title commitment, as may be amended or modified, fully discloses to all recipients of any title insurance commitment the impairments of record concerning the property to be insured, the extent of coverage proposed, *all proposed title exceptions*, and in a clear and conspicuous manner, shall show whether the title insurance commitment does or does not commit to insure over or delete those exceptions to title specified therein, consistent with § 10-11-106, C.R.S.

...

- D. *Every title entity shall ensure that, except for standard or preprinted exceptions, all proposed title exceptions on a title commitment for the issuance of an owners policy of title insurance shall make reference to the recording information of the document to be excepted from coverage. In the case of unrecorded yet known impairments, the title entity may use other identifiable marks on the document, such as date, names of parties, case numbers, etc. Title entities shall not make use of generic exceptions unless there is receipt of written instructions signed by the proposed insured authorizing the use of such exceptions or a request from the proposed insured for a specific policy form has been made which makes use of such exceptions.*

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.*
- N. *Each title entity shall maintain adequate documentation and records sufficient to show compliance with this regulation and Title 10 of the Colorado Revised Statutes for a period of not less than seven (7) years, except as otherwise permitted by law. [Emphases added.]*

The examiner selected a random sample of 116 policy files, which included both sale and refinance transactions. Of those, forty-one (41) files contained owner's policies. Additionally, only nine (9) of those owner's policies were subject to the specific coverage exceptions requirement.

Alliant was not in compliance with Colorado insurance law in that five (5) of the nine (9) owner's policy files that required specific coverage exceptions, did not contain evidence that the specific coverage exceptions had been disclosed.

Specific Exceptions

Population	Sample Size	Owner's Policies	Owner's Policies Requiring Specific Exceptions	Number of Exceptions	Total Error Rate
10,222	116	41	9	5	56%

Recommendation No. 6:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of Colorado Insurance Regulation 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure that specific coverage exceptions are disclosed with each title commitment issued for an owner's title insurance policy, when it is determined specific coverage exceptions are required, as required by Colorado insurance law.

Issue G5: Failure, in some instances, to require agents to remit premiums within the required contractual time period.

Section 10-2-704, C.R.S., Fiduciary responsibilities, states in part:

- (1)(a) All premiums belonging to insurers and all unearned premiums belonging to insureds received by an insurance producer licensee under this article shall be treated by such insurance producer in a fiduciary capacity. The commissioner may promulgate such rules as are necessary and proper relating to the treatment of such premiums.
- (b) All premiums received, less commissions if authorized, *shall be remitted to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five days after receipt.*
- ...
- (d) *If any insurance producer has failed to account for any collected premium to the insurer to whom it is owing or to its agent entitled thereto for more than forty-five days after the contractual due date or, if there is no contractual due date, more than ninety days after receipt, the insurer or its agent shall promptly report such failure to the commissioner in writing.* [Emphases added.]

Colorado Insurance Regulation 3-5-1, Title Insurance (effective January 1, 2007), promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-11-124(2) and 10-4-404(1), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- K. *Each title entity shall exercise reasonable efforts to ensure that the acts of its authorized agents performed within the scope of the person's employment by the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.* [Emphases added.]

Colorado Insurance Regulation 3-5-1, Title Insurance (effective May 1, 2010), promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.* [Emphases added.]

Alliant was not in compliance with Colorado insurance law, as the premium was not remitted within the required contractual time period in eighty-three (83) of 116 policy files randomly selected from a total population of 10,222 policies.

Premium Remittance

Population	Sample Size	Number of Exceptions	Total Error Rate
10,222	116	83	72%

Recommendation No. 7:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-2-704, C.R.S., and Colorado Insurance Regulation 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure timely remittance of premium, as required by Colorado insurance law.

Issue G6: Failure, in some instances, to report to the Commissioner any remittance that exceeded forty-five (45) days beyond the contractual due date.

Section 10-2-704, C.R.S., Fiduciary responsibilities, states in part:

- (1)(a) All premiums belonging to insurers and all unearned premiums belonging to insureds received by an insurance producer licensee under this article shall be treated by such insurance producer in a fiduciary capacity. The commissioner may promulgate such rules as are necessary and proper relating to the treatment of such premiums.
- (b) All premiums received, less commissions if authorized, *shall be remitted to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five days after receipt.*
- ...
- (d) If any insurance producer has failed to account for any collected premium to the insurer to whom it is owing or to its agent entitled thereto for more than forty-five days after the contractual due date or, if there is no contractual due date, more than ninety days after receipt, *the insurer or its agent shall promptly report such failure to the commissioner in writing.* [Emphases added.]

Colorado Insurance Regulation 3-5-1, Title Insurance (effective May 1, 2010), promulgated under the authority of §§ 10-1-109, 10-2-104, 10-3-1110, 10-4-404(1), 10-11-118, and 10-11-124(2), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- M. *Each title entity shall exercise reasonable efforts to ensure that the acts of its employees and other authorized agents performed within the scope of the person's employment, contract, or agency agreement with the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.* [Emphases added.]

Colorado Insurance Regulation 3-5-1, Title Insurance (effective January 1, 2007), promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-11-124(2) and 10-4-404(1), C.R.S., states in part:

...

Section 7. Rules Regarding Consumer Protections

...

- K. *Each title entity shall exercise reasonable efforts to ensure that the acts of its authorized agents performed within the scope of the person's employment by the title entity, including closing agents and title insurance agencies, comply with all laws and regulations concerning the business of title insurance.* [Emphases added.]

Alliant was not in compliance with Colorado insurance law as the Company failed to report to the Commissioner, in writing, fifty (50) cases in which the premium remittance exceeded forty-five (45) days after the contractual due date. These fifty (50) files pertained to nine (9) different agents.

No evidence or documentation was located or provided, which would demonstrate the failure of these nine (9) agents to remit premium timely was reported to the commissioner, in writing, as required by Colorado insurance law.

Premium Remittance Reporting

Population	Sample Size	Late Premium Remittances	Number of Exceptions	Total Error Rate
10,222	116	83	50	60%

Recommendation No. 8:

Alliant shall be provided a reasonable period, not exceeding thirty (30) days from the date of this report, to make written submissions or rebuttal as to why it should not be considered in violation of § 10-2-704, C.R.S., and Colorado Insurance Regulation 3-5-1. In the event Alliant is unable to provide such documentation, it shall be required, within thirty (30) days from the date this report is adopted, to provide written evidence to the Division that it has revised its processes and fully implemented procedures to ensure any remittance of premium that exceeds forty-five (45) days from the contractual due date is promptly reported to the Commissioner, as required by Colorado insurance law.

SUMMARY OF ISSUES AND RECOMMENDATIONS	Rec. No.	Page No.
COMPANY OPERATIONS AND MANAGEMENT		
Issue A1: Failure to provide an anti-fraud statement as required by Colorado insurance law.	1	14
RATES		
Issue F1: Failure, in some instances, to charge rates in accordance with the rates on file with the Commissioner.	2	18
NEW BUSINESS		
Issue G1: Failure, in some instances, to conduct, preserve and retain a reasonable examination of the title.	3	21
Issue G2: Failure to obtain a certificate of taxes due or written instructions eliminating the requirement from the proposed insured.	4	23
Issue G3: Failure, in some instances, to provide evidence of the severed mineral estate disclosure.	5	26
Issue G4: Failure, in some instances, to provide evidence that specific coverage exceptions had been disclosed.	6	28
Issue G5: Failure, in some instances, to require agents to remit premiums within the required contractual time period.	7	30
Issue G6: Failure, in some instances, to report to the Commissioner any remittance that exceeded forty-five (45) days beyond the contractual due date.	8	32

Examination Report Submission

Division Market Conduct Examiners

Christine M. Nelson

And

Jeffory A. Olson, CIE, MCM, FLMI, AIRC, ALHC

Submit this Verified Report on this 30th day of January 2012 for:

**The Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, Colorado 80202**